

UNCLASSIFIED STATE 00063167

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FM SECSTATE WASHDC

TO ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE
RUEHTRO/AMEMBASSY TRIPOLI 7912

UNCLAS SECTION 01 OF 02 STATE 063167

E.O. 12958: N/A

TAGS: AFIN AMGT

SUBJECT: END OF THE YEAR PROCUREMENT GUIDANCE

REF: REF: (A)PIB 2007-8, (B)01 STATE 140917, (C)01 STATE
071365

¶1. SUMMARY. This is a reminder from the Procurement Executive as the end of the fiscal year approaches; you should coordinate your end-of-the-year procurement actions (contracts, purchase orders, delivery orders, and calls under blanket purchase agreements/BPA) early with requiring activities to follow applicable Federal Acquisition Regulation requirements. END SUMMARY.

¶2. As the end of the fiscal year approaches it is important for post management to work with procurement personnel to establish cut off dates for procurement actions since all FY2009 actions must be processed by midnight September 30, 2009. An administrative notice should then be sent to all requiring offices notifying them of the established cut off dates for each type of procurement action. Procurements over \$100,000 will obviously take longer to compete than those under \$3,000. Please review Exhibit 1-9, Acquisition Thresholds, in the Overseas Contracting and Simplified Acquisition Guidebook to assist in developing cut off dates for your requiring offices. This guidebook can be found on State's intranet site at http://aoepd.a.state.gov/content.asp?content_id=25&menu_id=50. GSO's may assist with procurement requests submitted after the cut off dates but priority will be given to those requests that were timely. A lack of advance acquisition planning is not a reason for carrying over funds or limiting competition per FAR 6.301(c).

¶3. Basic rules are listed, along with specific "do's" and "don'ts."

¶A. Only a warranted Contracting Officer (appointed by the Procurement Executive) may sign a procurement action. See Ref A for instructions on how to request a Contracting Officer's warrant.

¶B. Each action must also state a required delivery date even if it is only the date the items should be delivered to the U.S. Dispatch Agency or pouch facility. Without a required delivery date, the USG cannot legally enforce delivery of the item.

¶C. Each procurement action must be addressed to a specific contractor, not 'various vendors.'

¶D. Purchase orders may not be used to acquire personal services. See Ref B.

¶E. Purchase orders may not be used to obligate funds for

contingencies to avoid expiration of current fiscal year funds.

IF. Purchase orders may not be issued to a U.S. Government entity (whether it is an embassy, consulate, mission, or any other Government contracting activity). Most actions involved with transferring of funds to the U.S. Government shall use requisitions, cables, or DS-1921, award/modification of interagency acquisition agreement, or purchase card.

IG. Purchase orders issued by post for the CAA must follow the requirements of Ref C.

IH. The action must include the total amount of funds to be obligated.

II. A certification of availability of funds must be received from the Financial Management Officer (FMO) before the signature of the Contracting Officer.

IJ. All purchase orders must be in the mail or faxed to the contractor and out of the control of the contracting officer prior to the end of fiscal year.

IK. When reporting fourth quarter actions to the State/Federal Procurement Data System (S/FPDS):

(i) Do not include procurement actions processed by another activity for post, e.g., RPSO or A/LM/AQM.

(ii) Verify that the number assigned to the action matches the contract numbering system delineated in DOSAR 604.170.

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(iii) Ensure that all procurement actions (purchase order, delivery order, or contract) issued on behalf of another agency and signed by the Contracting Officer at post are reported.

Note: The Reftels cited above have also been incorporated into the Overseas Contracting and Simplified Acquisition Guidebook.

IL. List specific items being purchased. Each procurement action must state specific line items or contain a complete statement of work. See FAR 13.501(c).

(i) Do not simply type 'as per your quotation'. You need to describe services to be provided or part numbers, model numbers and quantities, etc.

(ii) For example, it is not acceptable for the PO to merely state "refrigerator" with the future intention of later specifying the type of refrigerator required. The PO must specify the brand and model number of the refrigerator. Without this information, the Contracting Officer cannot properly make a determination of price reasonability, as required by FAR 13.106-3, nor is the USG expressing a specific need. Remember, you should solicit using salient characteristics, rather than a specific brand name and model, when obtaining competition that results in a PO. At time of award, the PO needs to cite specifically what is being purchased and at that point, it is appropriate to identify the item by brand and model number.

IM. Bona Fide Needs. Suppose in the above example, the PO is awarded in September and the decision regarding the specific refrigerator that is required/purchased will not be made until the next fiscal year when the new officer arrives. In that example, failure to specify the brand and model of refrigerator and a delivery due date would violate the bona fide needs rule as well. This is

because the USG has no true need for the refrigerator until the arrival of the new officer, nor has the USG decided which refrigerator it is buying. Purchase orders may not be used to obligate funds for contingencies to avoid expiration of current fiscal year funds.

¶11. Correct procedure. If the agency must await the arrival of the new officer before deciding exactly what refrigerator is required, then the correct procedure is to wait until the new officer arrives, find out what appliance is required, then award a PO specifying that item and obligating funds. In so doing, the decision regarding which refrigerator is required must be based upon cubic feet and other feature requirements, as well as any maintenance and parts interchangeability requirements. It cannot be based merely on personal preference.

¶10. Don't forget that all Justifications for Other than Full and Open Competition over \$100,000 need to be launched to FedBizOps per PIB 2009-8 and Section 844 of the National Defense Act for Fiscal Year (FY) 2008 which is applicable to Dept of State as well.

¶14. If you have any questions, contact by telephone, fax, or email:

AF posts - Nick Dinkel - 703-812-2371
EAP posts - Susan Catington - 703-516-1694
EUR North posts - Lorri Lowther - 703-516-1682
EUR South posts (add Guatemala, Nicaragua, Peru) - John Rose - 703-516-1690
NEA/SCA posts - Teresa Knox - 703-516-1692
WHA posts - Rick Jones - 703-516-1687
PTS, MX and Canada - Colleen Kosar - 703-516-1685

¶15. MINIMIZE CONSIDERED
CLINTON